



City of Rockville

MEMORANDUM

September 10, 2008

TO: Scott Ullery, City Manager
FROM: Susan Swift, CPDS Director
SUBJECT: Zoning Ordinance 9/2/08 Draft

Summary of Staff Changes & Recommendations

The following is a summary, by article, of major changes made to the draft ordinance that have been initiated by the staff and included in the 9/2/08 draft. Those items in italics do not appear in this draft but are suggested to make the document more user-friendly.

Article 1. General Information

None

Article 2. Zoning Map

None

Article 3. Definitions

Separated: demolition and substantial exterior alteration; Added: stream buffer, renewable energy generation equipment, initial approving documents, right-of-way; Revised: floodplain.

Article 4. Approving Authorities

Moved all "Expiration" sections to Articles 6 & 7 and renamed Implementation Period.

Historic District Commission (HDC): codified HDC duties to include designation, Certificates of Approval in historic zones, courtesy reviews and review of all demolitions citywide; changed from HDC review to staff review: NRI's and substantial exterior alterations citywide.

Article 5. Application and Notification

25.05.03: various edits for clarification and consistency regarding mailings.

Changed "resident" to "tenant" to include business tenants; requires mail notice to both mailing address and site location address in attempt to capture tenant. There is still no reliable or legally

defensible list of tenants so staff believes that a double mailing to the mailing address and the site location will be an improvement to capturing tenants – but not one that can be found as a notification defect.

Staff suggests reformatting so that all notification details are moved to this article. They are now sprinkled throughout various articles where procedures are mentioned.

25.05.07: Broadened Minor Amendments to recognize site design and engineering realities; edited for consistency and clarification and redundancy. Deleted limit on extensions for market conditions, to be consistent with other reasons for extensions.

Article 6. Procedures for Map & Text Amendments, Variances, Special Exceptions, etc.

25.06.03: Deleted Planning Commission review of variances prior to Board of Appeals due to the nature of such cases.

25.06.05 - Administrative Adjustments in Single Dwelling Units: corrected terms, deleted public hearing by Chief of Planning.

Article 7. Procedures for Site & Project Plans, Special Exceptions & Other Permits

25.07.01: Added environmental and Master Plan findings; *staff suggests deleting this partial list and consider referring to the more comprehensive list in Article 1, Purpose.*

25.07.02: various edits for clarification and consistency; revised historic review of NRI's to be performed by professional staff similar to staff review of other NRI issues; deleted provision where Chief of Planning can “bump up” to a higher level of review despite points.

25.07.03: Eliminated Chief of Planning public hearings and clarified purpose of notice for Level 1.

25.07.03 through 25.07.07: Eliminated mandate for Area Meetings for all subsequent revisions (kept mandatory pre-application area meeting). Such meetings seem to usurp the Planning Commission's role (or that of the appropriate approving commission) and potentially create a situation where decisions are made or direction is given at the area meetings which may not have consistent or as much attendance as a public hearing. *Staff suggests that the more effective way is to have the mandatory pre-application Area Meeting but that any additional required meetings be held after the initial public hearing in order to put all parties on a level playing field and all parties hearing the same information that is also on the public record. In that way, the respective commission serves as facilitator, consensus-builder and decision-maker for all stakeholders.*

25.07.03 through 25.07.07: Changed mailings to be sent by applicant rather than city– except for Decision Letter and nonconforming alteration applications which will still be sent by staff; *May also want to consider changing back to have staff send notices for HDC cases and variances. This is not merely an issue of public expense. Notification in the past has not been satisfactory because it was not codified. Contrary to perception, the applicant is more likely to properly notice (if they know the rules) so as not to delay their hearing on a technicality.*

Staff also suggests but did not include in this draft: Reformatting to move Sections 25.07.08 through 25.07.14 to Article 6 – for ease of administration. These sections are related more to use and are not applicable to all projects whereas site plans or project plans are required for all projects. Staff also suggests eliminating redundant notice sections and combining all notice requirements in, and refer to, Article 5.

25.07.06: Moved and combined all Implementation Period sections here from Article 4 and 6.

25.07.09: Eliminated Level 2 site plan for temporary uses.

25.07.13 - Certificates of Approval: Codified HDC's practices and procedures as now outlined in handouts and on website; some text was moved from Article 14.

Article 8. Transitional Provisions and Nonconformities

25.08.01: Clarified provisions for multi-phase projects, special exceptions, variances that were previously approved but have not received all final subsequent permits; Added provision that pending applications not yet approved must comply with new ordinance.

25.08.05: Single family homes may be replaced if destroyed; in cases of voluntary destruction of 50% or more of the floor area, or 100% increase in floor area, the house must be brought into compliance with new code.

25.08.06: The "grandfather" provisions were consolidated to cover all existing structures that would not otherwise conform to new code; any expansion of the portion that does not conform – must comply; if nonconformities are expanded 50% or more of floor area, the development must be brought into compliance with new code.

25.08.07: Tied nonconforming alteration approvals to Level 1 & 2.

Article 9. Accessory Uses, Accessory Buildings & Structures, HBBE's, Wireless, etc.

25.09.03: Changed height measurement of accessories to be consistent with measurement of height on primary buildings; Added 500 SF limit on size of accessory buildings.

25.09.05: Deleted hedges from fence regulations; added 6 ft fences for schools; added notice requirements for height waivers.

25.09.07 – HBBE's: Revised no-impact and use of accessories, as directed. *Need to clarify if it was intended to allow HBBE's in attached garages but not in detached.*

Staff still has concerns about the negative impact of Minor HBBE's on our neighborhoods, and the inability for neighbors to effectively complain and the city to enforce the "trip" criteria. The allowance of retail sales and an employee at any home without notice or a public hearing seems to undermine other articles of this code which emphasize protection of residential areas of the city. As written, it will be easier to set up a retail business in a home than it will be to build retail on Rockville Pike. Staff suggests combining the Minor and Major HBBE's as a special exception.

Article 10. Single Dwelling Unit Residential Zones

25.10.03 – Use Tables: Added PODs, accessory pools and No impact HBBEs.

25.10.05: Added flexibility for impervious parking materials.

25.10.09: Deleted FAR; changed height from 32 to 35 ft and allowed the Planning Commission to raise height up to 40 ft; deleted Chief of Planning height waiver and added footnote to address DPW concern about grade differentials.

Article 11. Residential Medium Density Zones

Added PODs and No Impact HBBEs

Article 12. Industrial Zones

25.12.03: Deleted size conditions for certain uses in Industrial zones; added PODs, changed auctioneer/gallery to Permitted use; added renewable energy equipment and industrial uses.

Article 13. Mixed Use Zones

25.13.03 – Use Table: clarified townhouse vs. attached; added no impact HBBE, accessory pool, PODs; corrected hospital in MXNC, theatre in MXB, eliminated off premise alcohol sales in MXB; revised various vehicle-related uses

25.13.05: Revised height provisions; deleted redundant public use sections and referred to Article 17; deleted grandfathering section; clarified that these are design guidelines.

25.13.06: Deleted retail sales limitations

25.13.08: Deleted industrial type performance standards from old code; issues handled elsewhere.

Staff suggests removing certain limitations on office size, etc. to make office uses more permissive and conforming in commercial zones.

Article 14. Special Zones

25.14.01: Deleted 210 day delay for interim historic review; moved sections on exterior changes to Articles 5 & 7, Certificates of Approval

25.14.07 – Planned Development (PD) Zones: various changes throughout PD sections to clarify relationship to equivalent zones, future amendments, Implementation Periods, and correcting information on individual PD's.

Article 15. Special Exceptions

Added reference to Article 5 notice provisions; various changes to Additional Requirements for Certain Special Exceptions (bed and breakfast, private educational institutions, housing for senior adults, and lifecare.

Article 16. Parking and Loading

Various changes including how handicapped spaces are counted, parking for certain religious institutions, auto sharing, extending from 500 to 600 ft distance to public parking, off-site parking agreements, bike parking and design. Deleted reference to Bicycle Parking Fund.

Article 17. Public Use Space, Landscaping, Sidewalks, etc.

25.17.01: allowance for security and safety limitations on public access; allowing for payment in lieu for any site; exempting affordable housing and senior housing from provision of public use space. *Staff suggests that this be reinstated so that all citizens may benefit from public use space.*

25.17.03: Deleted exception for undergrounding utilities

Article 18. Signs

25.18.10: Election sign revision – eliminate size and add removal in 7 days; staff is working on graphics clean-up.

Article 19. Enforcement

Revised to cite proper authority as City Manager or designee because enforcement crosses many departments.

Article 20. Adequate Public Facilities

Deleted 2005 provision no longer needed, and corrected references for subdivisions and PDs.

Article 21. Plats and Subdivisions

Various edits for consistency, and added notice provision for preliminary plats, revised improvements required by the subdivider; deleted alleys and revised utility easements; revised tree planting for subdivisions.

Landscaping, Screening & Lighting Manual

Creates a manual to address design details that should not be part of a code/ordinance.

ZONING MAP REVISIONS

- ❑ Public school sites changed from Park zone to existing residential zones
- ❑ Parks within PD zones changed back from Park zone to PD
- ❑ Added Town Center Performance District boundary
- ❑ Added Twinbrook Metro Performance District boundary
- ❑ Added Lincoln Park Conservation District boundary
- ❑ Added Historic District zones